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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,251	01/30/2006	Asterios Daios	22971	7060
535	7590	11/16/2006		EXAMINER
THE FIRM OF KARL F ROSS			O HERN, BRENT T	
5676 RIVERDALE AVENUE				
PO BOX 900			ART UNIT	PAPER NUMBER
RIVERDALE (BRONX), NY 10471-0900			1772	

DATE MAILED: 11/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.	DAIOS, ASTERIOS	
10/526,251		
Examiner Brent T. O'Hern	Art Unit 1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1) Responsive to communication(s) filed on 26 October 2006.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

4) Claim(s) 5-12 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 5-12 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) Notice of Informal Patent Application  
6) Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claims***

1. Claims 5-12 are pending with claims 1-4 cancelled and claims 5-12 new.

**WITHDRAWN REJECTIONS**

2. The 35 USC 112 rejections of claims 1-4 of record in the Office Action mailed 26 April 2006, page 2, paragraph 2, have been withdrawn due to Applicant's cancellation of claims 1-4 in the Paper filed 26 October 2006.
3. The 35 USC 103 rejections of claims 1-4 as being unpatentable over Kesinger (US 3,698,131) in view of Stillman et al. (US 3,285,497) of record in the Office Action mailed 26 April 2006, page 4, paragraph 4, have been withdrawn due to Applicant's cancellation of claims 1-4 in the Paper filed 26 October 2006.

**REPEATED OBJECTIONS**

4. The objection to the Abstract of record in the Office Action mailed 26 April 2006, page 2, paragraph 1, is repeated for the reasons of record in the Office Action mailed 26 April 2006, page 2, paragraph 1.

**EXAMINER'S NOTE**

5. Applicant has not provided a section heading for the "BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S)" section on page 2 of Applicant's Specification as required by 37 CFR 1.77(b). Applicant is advised to make said correction in the response to this Office Action.

## **NEW REJECTIONS**

### ***35 USC § 112 Rejections***

6. Claims 10-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase “**both stretched to a length greater than the length of the center part**” in claim 10, lines 6-7 is vague and indefinite as it is unclear whether both refers to the unitary edges, the center and unitary edges or something else.

The phrase “**the edges being folded up over a transverse width greater than the predetermined width**” in claim 10, lines 7-9 is vague and indefinite since it is unclear how the edges can be folded greater than the predetermined width and still be folded.

Claim 10 recites the limitation “**a transverse width**” in line 8. There is **insufficient antecedent basis** for this limitation in the claim.

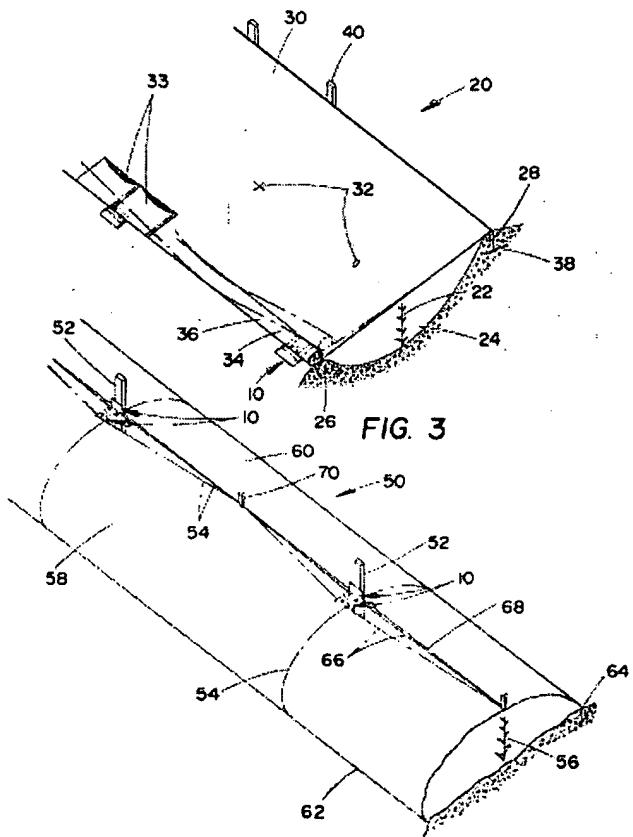
The phrase “**naturally separating**” in claim 10, line 12 is vague and indefinite since it is unclear what is the difference between naturally separating and synthetic separating.

Clarification and/or correction is required.

### ***35 U.S.C. 103(a) Rejections***

7. Claims 5-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kesinger (US 3,698,131) in view of Stillman et al. (US 3,285,497).

Regarding claim 5-7 and 9, Kesinger ('131) teaches film for coverage (See col. 2, I. 42 and FIG-3 wherein the polyester plastic film #20 covers plant #22.) with openings for weight insertion at outer edges (See FIG-3 and col. 3, II. 47-50 wherein pockets #33 have openings at the top and tubes #34 with openings at the ends wherein soil or weight is added to retain the film.) and being of a predetermined length and width, the length being longer than the width and having a elongated outer-edge zone (See FIGs 3 and 4 wherein the elongated lengths, #62 and #68, are clearly longer than the width of the narrow edge.), however, fails to expressly teach the edges being folded and welded to a main body of the film with consecutive lengthwise umbrella welds forming pockets for weight insertion.



However, Stillman ('497) teaches wherein the edges being folded and welded to a main body of the film with consecutive lengthwise welds forming pockets for weight insertion (col. 5, ll. 48-55) for the purpose of receiving various materials (col. 5, l. 55).

Furthermore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to weld its pockets or tubes (col. 3, ll. 47-50) with functionally equivalent umbrella welds for the purpose of providing a pocket to hold soil or weight in order to retain the film.

Furthermore, Kesinger ('131) teaches folded welded plastic pockets in column 2, lines 46-49 and FIG-2, pocket #10 with fold #14 and weld lines #16. Thus, it would have been obvious to one having ordinary skill in the art that Kesinger's ('131) pockets would be welded as taught by Stillman ('497) since both materials are weldable and Stillman ('497) teaches that welded pockets are well known in the art.

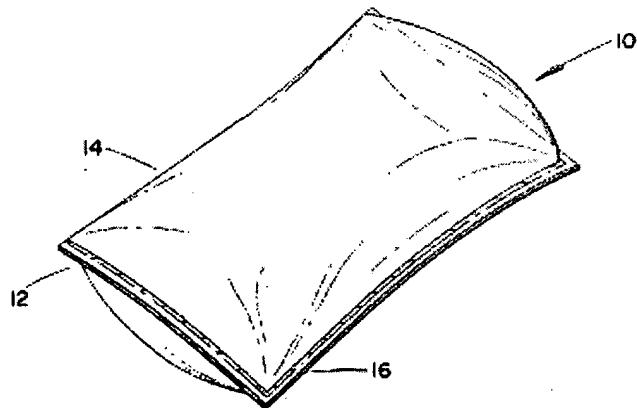


FIG. 2

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to use the folded welded pockets with various welding configurations as taught by Stillman ('497) in order to provide Kesinger ('131) with a

product as described above since Kesinger ('131) and Stillman ('497) are both directed to plastic films with pockets.

The phrases "**the elongated zone at each of the edges is 15 cm wide and the folded edge incorporates the elongated zone and is up to 20 cm wide**" in claim 6, lines 1-4; "**the elongated zone at each edge is up to 5 cm wide**" in claim 7, lines 1-2; are not limiting since the folded edge that incorporates the elongated zone can be 0 cm wide, thus providing for both the folded edge and elongated zone of 0 cm.

The phrase "**the umbrella welds are spaced from each other by at most 100 cm and form non-welded openings along a length of the plastic film of at most 20 cm**" in claim 9, lines 1-3 is not limiting since spacing and the openings can be 0 cm.

Regarding claim 8, Kesinger ('131) fails to expressly disclose wherein the folded edge is 10 - 15 cm wide, however, Kesinger ('131) teaches pockets with soil or weight retaining means (*col. 3, ll. 47-50*) for the purpose of anchoring the structure (*col. 3, ll. 50-52*). Therefore, it would have been obvious to one having ordinary skill in the art at the time of Applicant's invention to provide pockets with varying dimensions, including 10-15 cm, so as to anchor the structure.

Regarding claim 10, Kesinger ('131) teaches a plastic film for use (See *col. 2, l. 42 and FIG-3* wherein the polyester plastic film #20 covers plant #22.) forming a downwardly- open U-shaped tunnel over a row of plants (*FIG-4, #50 over #56*), the film having a longitudinally extending center part of predetermined length (*FIG-4, region along stakes #52*);

a pair of unitary edges of predetermined transverse width transversely flanking the center part (*FIG-3, edges at base of pockets #33*), the edges being folded up over a transverse width (*FIG-3, folded pockets #33 and #34 and FIG-2, folded pocket #10*); and

a multiplicity of transverse welds at the folded-up edges (See *FIGs 3 and 2, #33, #34 and #10 with weld lines along #33, #34 and #10.*) forming along each edge a row of inwardly open pockets (*FIG-3, #33 and #34*), whereby the stretched edges separating from the center part when the film is formed into the downwardly open U-shaped tunnel so that the pockets gap open and can be filled with material to weight down the film (See *FIG-4, #50 in a U-shaped tunnel with stretched edges and FIG-3, with pockets #33, #34 and #10 at edges #36.*).

Regarding claim 11, Kesinger ('131) teaches welds (*col. 2, l. 49 and FIG-2, #16*), however, fails to expressly disclose wherein the welds are umbrella-shaped with a transversely inwardly pointing roof part and a base part extending to bottoms of the flanking pockets.

However, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to weld its pockets or tubes (*col. 3, ll. 47-50*) with functionally equivalent umbrella welds for the purpose of providing a pocket to hold soil or weight in order to retain the film (*col. 3, ll. 47-50*).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to use functionally equivalent umbrella shaped welds in order to provide pockets to retain the film.

Regarding claim 12, Kesinger ('131) teaches wherein the edge is formed above bottoms of the pockets with throughgoing drain holes (*col. 3, l. 43, drain holes*).

#### ANSWERS TO APPLICANT'S ARGUMENTS

8. In response to Applicant's argument (*p. 4, paras. 3-4*) that nothing in the art suggests stretched edges and pockets that gap open, it is firstly noted that Applicant does not claim pockets that "gap open". Secondly, note that Kesinger ('131) teaches a plastic film (*See col. 2, l. 42 and FIG-3 wherein the polyester plastic film #20 covers plant #22.*) with the edges being folded up over a transverse width (*FIG-3, folded pockets #33 and #34 and FIG-2, folded pocket #10*); and a U-shaped tunnel with edges that are clearly stretched with pockets #33, #34 and #10 at edges #36 (*See FIG-4, #50 in and FIG-3.*).
9. In response to Applicant's argument (*p. 4, para. 5*) that Kesinger ('131) teaches a fully closed inflated chamber, not an upwardly open edge pocket in FIG-2, it is noted that the pocket in FIG-2 is closed. Secondly, it is noted that Applicant does not claim an upwardly open edge pocket. Furthermore, Kesinger ('131) does teach open pockets (*See FIG-3, folded pockets #33 and #34*).
10. In response to Applicant's argument (*p. 5, para. 2*) that Stillman ('497) does not teach edge stretching, it is noted that Stillman ('497) clearly inherently teaches edge stretching as all such pockets will be stretched to at least a minimal amount during manufacturing (*see col. 5, l. 54 and FIG-5, #40*).
11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brent T. O'Hern whose telephone number is (571) 272-0496. The examiner can normally be reached on M-F, 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-2172. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*BTO*

Brent T O'Hern  
Examiner  
Art Unit 1772  
November 10, 2006

*Nasser Ahmad* 11/13/06  
NASSER AHMAD  
PRIMARY EXAMINER